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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ERIC S. COTTO,

Plaintiff,

-against-

FEDERAL NATIONAL MORTGAGE ASSOCIATION and
REO INTEGRATION, INC.,

Defendants.

1:20-cv-06487-MKV

ORDER

MARY KAY VYSKOCIL, United States District Judge:

On October 12, 2020, Defendants filed a Motion to Dismiss the Complaint [ECF No. 7].

On November 6, 2020, Plaintiff filed a Motion requesting (1) an order referring the case to mediation, (2) leave to amend the Complaint, and (3) an order remanding the case to state court.

Federal Rule of Civil Procedure 15 provides,

A party may amend its pleading once as a matter of course within 21 days after serving it, or if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier. In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.

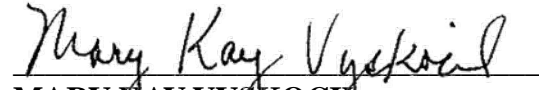
Fed. R. Civ. P. 15(a). “[T]he decision whether to grant leave to amend is within the discretion of the district court” *Oliver Schools, Inc. v. Foley*, 930 F.2d 248, 253 (2d Cir. 1991) (citation omitted). Leave to amend should be freely given absent “undue delay, bad faith or dilatory motive on the part of the movant, . . . undue prejudice to the opposing party by virtue of allowance of the amendment, [or] futility of amendment.” *Foman v. Davis*, 371 U.S. 178, 182 (1962).

Because twenty-one days has passed since Defendants filed the Motion to Dismiss and Defendants have not given written consent, leave of the Court is required for Plaintiff to amend the Complaint. *See* Fed. R. Civ. P. 15(a).

IT IS HEREBY ORDERED that on or before November 17, 2020, Defendants shall file a letter indicating whether they consent to (1) an order of referral to the Southern District's Mediation Program, (2) Plaintiff's request to amend the Complaint, and (3) remand of this action to state court.

SO ORDERED.

Date: November 13, 2020
New York, NY


MARY KAY VYSKOČIL
United States District Judge